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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR             | ATTORNEY DOCKET NO.          | CONFIRMATION NO.     |
|---|-------------|----------------------------------|------------------------------|----------------------|
| 10/072,570  | 02/08/2002  | Gijsbertus Johannes Van Oorschot | F7590(V)                     | 1952                 |
| 201   | 7590        | 04/21/2004                       | EXAMINER<br>WEBMAN, EDWARD J |                      |
| UNILEVER<br>PATENT DEPARTMENT<br>45 RIVER ROAD<br>EDGEWATER, NJ 07020 |             |                                  | ART UNIT                     | PAPER NUMBER<br>1617 |

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|--------------------|-------------|-----------------------|------------------|

EXAMINER

ART UNIT PAPER NUMBER

3/21/04

DATE MAILED:

This is a communication from the examiner in charge of your application.  
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### OFFICE ACTION SUMMARY

Responsive to communication(s) filed on 12/16/03

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 10-18 is/are pending in the application.  
Of the above, claim(s) 1-9 is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 10-18 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Applicant's election of Group III, polyphenols, and margerine in Paper No.

12/16/03 is acknowledged. Because applicant did not distinctly and specifically point out ~~the supposed~~<sup>any</sup> errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '996 (WO 99/23996).

WO '996 (see page 1 lines 4-6 applicants' spec), teaches a red rice product containing at least 0.05% lovastatin (page 8 lines 14-16). Preparations in hydrogenated edible fats are specified (page 17 lines 24-26). Further processing is discussed (page 12 lines 13-15). As to the claimed polyphenols, the anticipatory composition must possess them because the product is the same as that claimed.

The examiner takes notice under MPEP 2144.03 that removing colored impurities with for example, activated charcoal, is well-known in the purification art.

It would have been obvious to one of ordinary skill to treat the composition of WO '996 with activated charcoal for the beneficial effect of removing colored impurities, a process well-known in the purification art.

No claims allowed.

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Art Unit: 1617

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Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

Webman/tgd

March 23, 2004



EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 1500